

## **REMARKS**

Claims 1, 8, and 15 have been amended. Claims 24-26 have been canceled. Claims 1-22 are pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### **Allowable subject matter:**

The Office Action indicated that claims 21-22 were allowed, and that claims 24-26 would be allowable if rewritten in independent form including all limitations of base and intervening claims. Applicants have amended independent claims 1, 8, and 15 to recite the features of allowable dependent claims 24-26.

### **Obviousness-type Double Patenting Rejection:**

The Office Action provisionally rejected claims 1, 3, 5, 7, 8, 10, 12, 14, 15, 17, 19, and 20 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over various claims of copending Application No. 10/723,729. While Applicants traverse this rejection, Applicants submit that it is moot in view of the amendments to independent claims 1, 8, and 15. Specifically, Applicants note that the independent claims have been amended as described above to recite the features of allowable dependent claims 24-26, which were not subject to the provisional double patenting rejection.

### **Section 112, Second Paragraph Rejection:**

The Office Action rejected claims 15-20 and 26 under 35 U.S.C. § 112, second paragraph, as indefinite. Specifically, the Examiner asserted that “[I]language ‘executable to’ [in the rejected claims] raises [a] question as to whether the program instructions are executed on [a] computer to perform the steps as recited.”

Applicants traverse this rejection and note that in each instance to which the Examiner refers, the claims do not recite merely that instructions are “executable to” perform various tasks, but specifically state that the instructions are “computer-executable to” perform those tasks. Thus, Applicants submit that the question posed by the Examiner is not in fact raised with respect to the claims, and that these claims are definite. Applicants therefore request that the 35 U.S.C. § 112, second paragraph rejection be withdrawn.

**Section 103(a) Rejections:**

The Office Action rejected claims 1-2, 8-9, and 15-16 under 35 U.S.C. § 103(a) as being unpatentable over Pudipeddi, et al. (U.S. Patent Application Publication No. 2004/0002942) (hereinafter, “Pudipeddi”) in view of Howard (U.S. Patent No. 6,098,079) (hereinafter, “Howard”) and further in view of Patel et al. (U.S. Patent Application Publication No. 2004/0059866) (hereinafter, “Patel”). The Office Action also rejected claims 3-4, 10-11 and 17-18 under 35 U.S.C. § 103(a) as being unpatentable over Pudipeddi, Howard, and Patel, further in view of Santry et al. (“Deciding when to forget in the Elephant file system”) (hereinafter, “Santry”), claims 5-6, 12-13, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Pudipeddi, Howard, and Patel, further in view of Richard et al. (U.S. Patent Application Publication No. 2005/0015461) (hereinafter, “Richard”), and claims 7, 14 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Pudipeddi, Howard, and Patel, further in view of Reynolds et al. (U.S. Patent No. 6,286,013) (hereinafter, “Reynolds”). While Applicants traverse these rejections, in order to expedite issuance of a patent, Applicants have amended independent claims 1, 8, and 15 to recite the features of allowable dependent claims 24-26. Applicants therefore submit that claims 1-22 are in condition for allowance.

## CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-16300/AMP.

Respectfully submitted,

/ Anthony M. Petro /

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